

AMENDED IN SENATE APRIL 16, 2012

**SENATE BILL**

**No. 1299**

---

**Introduced by Senator Wright**

February 23, 2012

---

An act to amend Sections 13952, ~~13952.5, 13953,~~ 13954, ~~13956,~~ ~~13957,~~ 13957.2, 13957.7, *and* 13957.9, ~~13958, and 13964~~ of, the Government Code, relating to victims of crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1299, as amended, Wright. Victims of crime: compensation.

Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, procedures for hearings with respect to the denial of awards, and publicizing of the program by the board. Payment is made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.

Existing law authorizes the board to adopt regulations pursuant to existing law governing matters within its jurisdiction and to recognize an authorized representative of the victim or derivative victim who is required to represent the victim or derivative victim pursuant to rules adopted by the board.

~~This bill would modify several maximum reimbursement and cash payment amounts available to eligible claimants for specified incurred expenses. The bill would include within the meaning of the term "authorized representative" a county social worker designated by a~~

county department of social services to represent a child abuse or elder abuse victim if that victim is unable to file on his or her own behalf.

~~Existing law authorizes the board to grant an emergency award if the board determines that such an award is necessary to avoid or mitigate substantial hardship that may result from delaying compensation until final consideration of an application. If an application for an emergency award is denied, the board is required to notify the applicant in writing reasons for the denial.~~

~~The bill would establish criteria that limit the reasons for denial of an emergency award application.~~

~~Existing law authorizes the board to grant cash payments or reimbursements for pecuniary loss for, among other things, expenses incurred in relocating and specified medical, funeral, and burial expenses when a victim dies as a result of a crime.~~

~~The bill would modify provisions relating to the above authorized payments and reimbursements by limiting the award of relocation expenses to a per family basis.~~

*Existing law authorizes the board to establish maximum rates and service limitations for reimbursement of specified services and defines certain terms for purposes of the claim payment process.*

*The bill would provide that any change in maximum rates or service limitations shall not affect payment or reimbursement of losses incurred prior to 6 months after the adoption of any changes. The bill would also modify the definition of the term “qualified provider” for purposes of reimbursing mental health services claims.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 13952 of the Government Code is
- 2 amended to read:
- 3 13952. (a) An application for compensation shall be filed with
- 4 the board in the manner determined by the board.
- 5 (b) (1) The application for compensation shall be verified under
- 6 penalty of perjury by the individual who is seeking compensation,
- 7 who may be the victim or derivative victim, or an individual
- 8 seeking reimbursement for burial, funeral, or crime scene cleanup
- 9 expenses pursuant to subdivision (a) of Section 13957. If the
- 10 individual seeking compensation is a minor or is incompetent, the

1 application shall be verified under penalty of perjury or on  
2 information and belief by the parent with legal custody, guardian,  
3 conservator, or relative caregiver of the victim or derivative victim  
4 for whom the application is made. However, if a minor seeks  
5 compensation only for expenses for medical, medical-related,  
6 psychiatric, psychological, or other mental health  
7 counseling-related services and the minor is authorized by statute  
8 to consent to those services, the minor may verify the application  
9 for compensation under penalty of perjury.

10 (2) For purposes of this subdivision, “relative caregiver” means  
11 a relative as defined in subdivision (i) of Section 6550 of the  
12 Family Code, who assumed primary responsibility for the child  
13 while the child was in the relative’s care and control, and who is  
14 not a biological or adoptive parent.

15 (c) (1) The board may require submission of additional  
16 information supporting the application that is reasonably necessary  
17 to verify the application and determine eligibility for compensation.

18 (2) The staff of the board shall determine whether an application  
19 for compensation contains all of the information required by the  
20 board. If the staff determines that an application does not contain  
21 all of the required information, the staff shall communicate that  
22 determination to the applicant with a brief statement of the  
23 additional information required. The applicant, within 30 calendar  
24 days of being notified that the application is incomplete, may either  
25 supply the additional information or appeal the staff’s  
26 determination to the board, which shall review the application to  
27 determine whether it is complete.

28 (d) (1) The board may recognize an authorized representative  
29 of the victim or derivative victim, who shall represent the victim  
30 or derivative victim pursuant to rules adopted by the board.

31 (2) For purposes of this subdivision, “authorized representative”  
32 means any of the following:

33 (A) An attorney.

34 (B) If the victim or derivative victim is a minor or an  
35 incompetent adult, the legal guardian or conservator, or an  
36 immediate family member, parent, or relative caregiver who is not  
37 the perpetrator of the crime that gave rise to the claim.

38 (C) A victim assistance advocate certified pursuant to Section  
39 13835.10 of the Penal Code.

1 (D) An immediate family member of the victim or derivative  
2 victim, who has written authorization by the victim or derivative  
3 victim, and who is not the perpetrator of the crime that gave rise  
4 to the claim.

5 (E) Other persons who shall represent the victim or derivative  
6 victim pursuant to rules adopted by the board.

7 (F) A county social worker designated by a county department  
8 of social services to represent a child abuse victim or an elder  
9 abuse victim if that victim is unable to file on his or her own behalf.

10 (3) Except for attorney's fees awarded under this chapter, no  
11 authorized representative described in paragraph (2) shall charge,  
12 demand, receive, or collect any amount for services rendered under  
13 this subdivision.

14 SEC. 2. ~~Section 13952.5 of the Government Code is amended~~  
15 ~~to read:~~

16 ~~13952.5. (a) An emergency award shall be available to a person~~  
17 ~~eligible for compensation pursuant to this chapter if the board~~  
18 ~~determines that such an award is necessary to avoid or mitigate~~  
19 ~~substantial hardship that may result from delaying compensation~~  
20 ~~until complete and final consideration of an application.~~

21 ~~(b) The board shall establish the method for requesting an~~  
22 ~~emergency award, which may include, but need not be limited to,~~  
23 ~~requiring submission of the regular application as provided for in~~  
24 ~~Section 13952.~~

25 ~~(c) (1) The board may grant an emergency award based solely~~  
26 ~~on the application of the victim or derivative victim. The board~~  
27 ~~may refuse to grant an emergency award where it has reason to~~  
28 ~~believe that the applicant will not be eligible for compensation~~  
29 ~~under this chapter.~~

30 ~~(2) By mutual agreement between the staff of the board and the~~  
31 ~~applicant or the applicant's representative, the staff of the board~~  
32 ~~may take additional 10-day periods to verify the emergency award~~  
33 ~~claim and make payment.~~

34 ~~(3) The board may delegate authority to designated staff persons~~  
35 ~~and designated agencies, including, but not limited to, district~~  
36 ~~attorneys, probation departments, victim centers, and other victim~~  
37 ~~service providers approved by the board and under contract with~~  
38 ~~the board, who shall use guidelines established by the board, to~~  
39 ~~grant and disburse emergency awards.~~

1 ~~(d) Disbursements of funds for emergency awards shall be made~~  
2 ~~within 30 calendar days of application.~~

3 ~~(e) (1) If an application for an emergency award is denied, the~~  
4 ~~board shall notify the applicant in writing of the reasons for the~~  
5 ~~denial. Reasons for the denial shall be limited to the following~~  
6 ~~causes:~~

7 ~~(A) The applicant does not meet the requirements of Section~~  
8 ~~13955.~~

9 ~~(B) It is likely that the application would be denied pursuant to~~  
10 ~~Section 13956.~~

11 ~~(C) An award is not within the eligible classifications described~~  
12 ~~in Section 13957.~~

13 ~~(2) An applicant for an emergency award shall not be entitled~~  
14 ~~to a hearing before the board to contest a denial of an emergency~~  
15 ~~award. However, denial of an emergency award shall not prevent~~  
16 ~~further consideration of the application for a regular award and~~  
17 ~~shall not affect the applicant's right to a hearing pursuant to Section~~  
18 ~~13959 if staff recommends denial of a regular award.~~

19 ~~(f) (1) If upon final disposition of the regular application, it is~~  
20 ~~found that the applicant is not eligible for compensation from the~~  
21 ~~board, the applicant shall reimburse the board for the emergency~~  
22 ~~award pursuant to an agreed-upon repayment schedule.~~

23 ~~(2) If upon a final disposition of the application, the board grants~~  
24 ~~compensation to the applicant, the amount of the emergency award~~  
25 ~~shall be deducted from the final award of compensation. If the~~  
26 ~~amount of the compensation is less than the amount of the~~  
27 ~~emergency award, the excess amount shall be treated as an~~  
28 ~~overpayment pursuant to Section 13965.~~

29 ~~(3) "Final disposition," for the purposes of this section, shall~~  
30 ~~mean the final decision of the board with respect to the victim's~~  
31 ~~or derivative victim's application, before any action for judicial~~  
32 ~~review is instituted.~~

33 ~~(g) The amount of an emergency award shall be dependent upon~~  
34 ~~the immediate needs of the victim or derivative victim subject to~~  
35 ~~rates and limitations established by the board.~~

36 ~~SEC. 3. Section 13953 of the Government Code is amended~~  
37 ~~to read:~~

38 ~~13953. (a) An application for compensation shall be filed~~  
39 ~~within one year of the date of the crime, one year after the victim~~  
40 ~~attains 18 years of age, or one year of the time the victim or~~

1 derivative victim knew or in the exercise of ordinary diligence  
2 could have discovered that an injury or death had been sustained  
3 as a direct result of crime, whichever is later. An application based  
4 on any crime eligible for prosecution under Section 801.1 of the  
5 Penal Code may be filed any time prior to the victim's 28th  
6 birthday.

7 (b) The board shall for good cause grant an extension of the  
8 time period in subdivision (a). In making this determination, the  
9 board shall consider any relevant factors, including, but not limited  
10 to, any of the following:

11 (1) A recommendation from the prosecuting attorney regarding  
12 the victim's or derivative victim's cooperation with law  
13 enforcement and the prosecuting attorney in the apprehension and  
14 prosecution of the person charged with the crime.

15 (2) Whether particular events occurring during the prosecution  
16 or in the punishment of the person convicted of the crime have  
17 resulted in the victim or derivative victim incurring pecuniary loss.

18 (3) Whether the nature of the crime is such that a delayed  
19 reporting of the crime is reasonably excusable.

20 (4) The victim or derivative victim incurred a pecuniary loss  
21 within 90 days of submission of the application.

22 (5) The applicant for the victim or derivative victim declares  
23 under penalty of perjury that he or she was not aware of the  
24 program or of his or her eligibility for the program.

25 (c) The period prescribed in this section for filing an application  
26 by or on behalf of a derivative victim shall be tolled when the  
27 board accepts the application filed by a victim of the same  
28 qualifying crime.

29 (d) The period prescribed in this section for filing an application  
30 by or on behalf of a victim shall be tolled when the board accepts  
31 the application filed by a derivative victim of the same qualifying  
32 crime.

33 **SEC. 4.**

34 *SEC. 2.* Section 13954 of the Government Code is amended  
35 to read:

36 13954. (a) The board shall verify with hospitals, physicians,  
37 law enforcement officials, or other interested parties involved, the  
38 treatment of the victim or derivative victim, circumstances of the  
39 crime, amounts paid or received by or for the victim or derivative  
40 victim, and any other pertinent information deemed necessary by

1 the board. Verification information shall be returned to the board  
2 within 10 business days after a request for verification has been  
3 made by the board. Verification information shall be provided at  
4 no cost to the applicant, the board, or victim centers. When  
5 requesting verification information, the board shall certify that a  
6 signed authorization by the applicant is retained in the applicant's  
7 file and that this certification constitutes actual authorization for  
8 the release of information, notwithstanding any other provision of  
9 law. If requested by a physician or mental health provider, the  
10 board shall provide a copy of the signed authorization for the  
11 release of information.

12 (b) The victim and the applicant, if other than the victim, shall  
13 cooperate with the staff of the board or the victim center in the  
14 verification of the information contained in the application. Failure  
15 to cooperate shall be reported to the board, which, in its discretion,  
16 may reject the application solely on this ground. ~~Failure to respond~~  
17 ~~to letters or telephone calls from the board shall not be deemed to~~  
18 ~~constitute a lack of cooperation for purposes of the payment of~~  
19 ~~pecuniary losses described in Section 13957.~~

20 (c) The board may contract with victim centers to provide  
21 verification of applications processed by the centers pursuant to  
22 conditions stated in subdivision (a). The board and its staff shall  
23 cooperate with the Office of Criminal Justice Planning and victim  
24 centers in conducting training sessions for center personnel and  
25 shall cooperate in the development of standardized verification  
26 procedures to be used by the victim centers in the state. The board  
27 and its staff shall cooperate with victim centers in disseminating  
28 standardized board policies and findings as they relate to the  
29 centers.

30 (d) Notwithstanding Section 827 of the Welfare and Institutions  
31 Code or any other provision of law, every law enforcement and  
32 social service agency in the state shall provide to the board or to  
33 victim centers that have contracts with the board pursuant to  
34 subdivision (c), upon request, a copy of a petition filed in a juvenile  
35 court proceeding, reports of the probation officer, any other  
36 document made available to the probation officer or to the judge,  
37 referee, or other hearing officer, a complete copy of the report  
38 regarding the incident, and any supplemental reports involving the  
39 crime, public offense, or incident giving rise to a claim, for the  
40 specific purpose of the submission of a claim or the determination

1 of eligibility to submit a claim filed pursuant to this chapter. The  
2 board and victim centers receiving records pursuant to this  
3 subdivision may not disclose a document that personally identifies  
4 a minor to anyone other than the minor who is so identified, his  
5 or her custodial parent or guardian, the attorneys for those parties,  
6 and any other persons that may be designated by court order. Any  
7 information received pursuant to this section shall be received in  
8 confidence for the limited purpose for which it was provided and  
9 may not be further disseminated. A violation of this subdivision  
10 is a misdemeanor punishable by a fine not to exceed five hundred  
11 dollars (\$500).

12 (e) The law enforcement agency supplying information pursuant  
13 to this section may withhold the names of witnesses or informants  
14 from the board, if the release of those names would be detrimental  
15 to the parties or to an investigation in progress.

16 (f) Notwithstanding any other provision of law, every state  
17 agency, upon receipt of a copy of a release signed in accordance  
18 with the Information Practices Act of 1977 (Chapter 1  
19 (commencing with Section 1798) of Title 1.8 of Part 4 of Division  
20 3 of the Civil Code) by the applicant or other authorized  
21 representative, shall provide to the board or victim center the  
22 information necessary to complete the verification of an application  
23 filed pursuant to this chapter.

24 (g) The Department of Justice shall furnish, upon application  
25 of the board, all information necessary to verify the eligibility of  
26 any applicant for benefits pursuant to subdivision (d) of Section  
27 13956, to recover any restitution fine or order obligations that are  
28 owed to the Restitution Fund or to any victim of crime, or to  
29 evaluate the status of any criminal disposition.

30 (h) A privilege is not waived under Section 912 of the Evidence  
31 Code by an applicant consenting to disclosure of an otherwise  
32 privileged communication if that disclosure is deemed necessary  
33 by the board for verification of the application.

34 (i) Any verification conducted pursuant to this section shall be  
35 subject to the time limits specified in Section 13958.

36 (j) Any county social worker acting as the applicant for a child  
37 victim or elder abuse victim shall not be required to provide  
38 personal identification, including, but not limited to, the applicant's  
39 date of birth or social security number. County social workers



1 acting in this capacity shall not be required to sign a promise of  
2 repayment to the board.

3 ~~SEC. 5. Section 13956 of the Government Code is amended~~  
4 ~~to read:~~

5 ~~13956. Notwithstanding Section 13955, a person shall not be~~  
6 ~~eligible for compensation under the following conditions:~~

7 ~~(a) An application shall be denied if the board finds that the~~  
8 ~~victim or, where compensation is sought by or on behalf of a~~  
9 ~~derivative victim, either the victim or derivative victim, knowingly~~  
10 ~~and willingly participated in the commission of the crime that~~  
11 ~~resulted in the pecuniary loss for which compensation is being~~  
12 ~~sought pursuant to this chapter. However, this subdivision shall~~  
13 ~~not apply if the injury or death occurred as a direct result of a crime~~  
14 ~~committed in violation of Section 261, 262, or 273.5 of, or a crime~~  
15 ~~of unlawful sexual intercourse with a minor committed in violation~~  
16 ~~of subdivision (d) of Section 261.5 of, the Penal Code.~~

17 ~~(b) (1) An application shall be denied if the board finds that~~  
18 ~~the victim or, where compensation is sought by, or on behalf of,~~  
19 ~~a derivative victim, either the victim or derivative victim failed to~~  
20 ~~cooperate reasonably with a law enforcement agency in the~~  
21 ~~apprehension and conviction of a criminal committing the crime.~~  
22 ~~However, in determining whether cooperation has been reasonable,~~  
23 ~~the board shall consider the victim's or derivative victim's age,~~  
24 ~~physical condition, and psychological state, cultural or linguistic~~  
25 ~~barriers, any compelling health and safety concerns, including, but~~  
26 ~~not limited to, a reasonable fear of retaliation or harm that would~~  
27 ~~jeopardize the well-being of the victim or the victim's family or~~  
28 ~~the derivative victim or the derivative victim's family, and giving~~  
29 ~~due consideration to the degree of cooperation of which the victim~~  
30 ~~or derivative victim is capable in light of the presence of any of~~  
31 ~~these factors.~~

32 ~~(2) An application for a claim based on domestic violence may~~  
33 ~~not be denied solely because no police report was made by the~~  
34 ~~victim. The board shall adopt guidelines that allow the board to~~  
35 ~~consider and approve applications for assistance based on domestic~~  
36 ~~violence relying upon evidence other than a police report to~~  
37 ~~establish that a domestic violence crime has occurred. Evidence~~  
38 ~~that a domestic violence crime has occurred may include, but is~~  
39 ~~not limited to, any of the following: medical records documenting~~  
40 ~~injuries consistent with allegations of domestic violence, mental~~

1 health records, or the fact that the victim has obtained a temporary  
2 or permanent restraining order, or a statement from any law  
3 enforcement official stating that the crime occurred.

4 (3) ~~An application for a claim based on human trafficking as~~  
5 ~~defined in Section 236.1 of the Penal Code may not be denied~~  
6 ~~solely because no police report was made by the victim. The board~~  
7 ~~shall adopt guidelines that allow the board to consider and approve~~  
8 ~~applications for assistance based on human trafficking relying~~  
9 ~~upon evidence other than a police report to establish that a human~~  
10 ~~trafficking crime as defined in Section 236.1 has occurred. That~~  
11 ~~evidence may include any reliable corroborating information~~  
12 ~~approved by the board, including, but not limited to, the following:~~

13 (A) ~~A Law Enforcement Agency Endorsement issued pursuant~~  
14 ~~to Section 236.2 of the Penal Code.~~

15 (B) ~~A human trafficking caseworker as identified in Section~~  
16 ~~1038.2 of the Evidence Code, has attested by affidavit that the~~  
17 ~~individual was a victim of human trafficking.~~

18 (e) ~~An application for compensation may be denied, in whole~~  
19 ~~or in part, if the board finds that denial is appropriate because of~~  
20 ~~the nature of the victim's or other applicant's involvement in the~~  
21 ~~events leading to the crime or the involvement of the persons whose~~  
22 ~~injury or death gives rise to the application. In the case of a minor,~~  
23 ~~the board shall consider the minor's age, physical condition, and~~  
24 ~~psychological state, as well as any compelling health and safety~~  
25 ~~concerns, in determining whether the minor's application should~~  
26 ~~be denied pursuant to this section. The application of a derivative~~  
27 ~~victim of domestic violence under the age of 18 years of age or a~~  
28 ~~derivative victim of trafficking under 18 years of age may not be~~  
29 ~~denied on the basis of the denial of the victim's application under~~  
30 ~~this subdivision.~~

31 (d) (1) ~~Notwithstanding Section 13955, no person who is~~  
32 ~~convicted of a felony may be granted compensation until that~~  
33 ~~person has been discharged from probation or has been released~~  
34 ~~from a correctional institution and has been discharged from parole,~~  
35 ~~if any. In no case shall compensation be granted to an applicant~~  
36 ~~pursuant to this chapter during any period of time the applicant is~~  
37 ~~held in a correctional institution.~~

38 (2) ~~A person who has been convicted of a felony may apply for~~  
39 ~~compensation pursuant to this chapter at any time, but the award~~  
40 ~~of that compensation may not be considered until the applicant~~

1 meets the requirements for compensation set forth in paragraph  
2 (1).

3 (3) ~~Applications of victims who are not felons shall receive~~  
4 ~~priority in the award of compensation over an application submitted~~  
5 ~~by a felon who has met the requirements for compensation set~~  
6 ~~forth in paragraph (1).~~

7 SEC. 6. ~~Section 13957 of the Government Code is amended~~  
8 ~~to read:~~

9 13957. (a) ~~The board may grant for pecuniary loss, when the~~  
10 ~~board determines it will best aid the person seeking compensation,~~  
11 ~~as follows:~~

12 (1) ~~Subject to the limitations set forth in Section 13957.2,~~  
13 ~~reimburse the amount of medical or medical-related expenses~~  
14 ~~incurred by the victim, including, but not limited to, eyeglasses,~~  
15 ~~hearing aids, dentures, or any prosthetic device taken, lost, or~~  
16 ~~destroyed during the commission of the crime, or the use of which~~  
17 ~~became necessary as a direct result of the crime.~~

18 (2) ~~Subject to the limitations set forth in Section 13957.2,~~  
19 ~~reimburse the amount of outpatient psychiatric, psychological, or~~  
20 ~~other mental health counseling-related expenses incurred by the~~  
21 ~~victim or derivative victim, including peer counseling services~~  
22 ~~provided by a rape crisis center as defined by Section 13837 of~~  
23 ~~the Penal Code, and including family psychiatric, psychological,~~  
24 ~~or mental health counseling for the successful treatment of the~~  
25 ~~victim provided to family members of the victim in the presenee~~  
26 ~~of the victim, whether or not the family member relationship~~  
27 ~~existed at the time of the crime, that became necessary as a direct~~  
28 ~~result of the crime, subject to the following conditions:~~

29 (A) ~~The following persons may be reimbursed for the expense~~  
30 ~~of their outpatient mental health counseling in an amount not to~~  
31 ~~exceed ten thousand dollars (\$10,000):~~

32 (i) ~~A victim.~~

33 (ii) ~~A derivative victim who is the surviving parent, sibling,~~  
34 ~~child, spouse, fiancé, or fiancée of a victim of a crime that directly~~  
35 ~~resulted in the death of the victim.~~

36 (iii) ~~A derivative victim, as described in paragraphs (1) to (4),~~  
37 ~~inclusive, of subdivision (c) of Section 13955, who is the primary~~  
38 ~~caretaker of a minor victim whose claim is not denied or reduced~~  
39 ~~pursuant to Section 13956 in a total amount not to exceed ten~~

~~1 thousand dollars (\$10,000) for not more than two derivative  
2 victims.~~

~~3 (B) The following persons may be reimbursed for the expense  
4 of their outpatient mental health counseling in an amount not to  
5 exceed five thousand dollars (\$5,000):~~

~~6 (i) A derivative victim not eligible for reimbursement pursuant  
7 to subparagraph (A), provided that mental health counseling of a  
8 derivative victim described in paragraph (5) of subdivision (c) of  
9 Section 13955, shall be reimbursed only if that counseling is  
10 necessary for the treatment of the victim.~~

~~11 (ii) A victim of a crime of unlawful sexual intercourse with a  
12 minor committed in violation of subdivision (d) of Section 261.5  
13 of the Penal Code. A derivative victim of a crime committed in  
14 violation of subdivision (d) of Section 261.5 of the Penal Code  
15 shall not be eligible for reimbursement of mental health counseling  
16 expenses.~~

~~17 (iii) A minor who suffers emotional injury as a direct result of  
18 witnessing a violent crime and who is not eligible for  
19 reimbursement of the costs of outpatient mental health counseling  
20 under any other provision of this chapter. To be eligible for  
21 reimbursement under this clause, the minor must have been in  
22 close proximity to the victim when he or she witnessed the crime.~~

~~23 (C) The board may reimburse a victim or derivative victim for  
24 outpatient mental health counseling in excess of that authorized  
25 by subparagraph (A) or (B) or for inpatient psychiatric,  
26 psychological, or other mental health counseling if the claim is  
27 based on dire or exceptional circumstances that require more  
28 extensive treatment, as approved by the board.~~

~~29 (D) Expenses for psychiatric, psychological, or other mental  
30 health counseling-related services may be reimbursed only if the  
31 services were provided by either of the following individuals:~~

~~32 (i) A person who would have been authorized to provide those  
33 services pursuant to former Article 1 (commencing with Section  
34 13959) as it read on January 1, 2002.~~

~~35 (ii) A person who is licensed by the state to provide those  
36 services, or who is properly supervised by a person who is so  
37 licensed, subject to the board's approval and subject to the  
38 limitations and restrictions the board may impose.~~

1     ~~(3) Reimburse the expenses of nonmedical remedial care and~~  
2 ~~treatment rendered in accordance with a religious method of healing~~  
3 ~~recognized by state law.~~

4     ~~(4) Subject to the limitations set forth in Section 13957.5,~~  
5 ~~authorize compensation equal to the loss of income or loss of~~  
6 ~~support, or both, that a victim or derivative victim incurs as a direct~~  
7 ~~result of the victim's or derivative victim's injury or the victim's~~  
8 ~~death. If the victim or derivative victim requests that the board~~  
9 ~~give priority to reimbursement of loss of income or support, the~~  
10 ~~board may not pay medical expenses, or mental health counseling~~  
11 ~~expenses, except upon the request of the victim or derivative victim~~  
12 ~~or after determining that payment of these expenses will not~~  
13 ~~decrease the funds available for payment of loss of income or~~  
14 ~~support.~~

15     ~~(5) Authorize a cash payment to or on behalf of the victim for~~  
16 ~~job retraining or similar employment-oriented services.~~

17     ~~(6) Reimburse the claimant for the expense of installing or~~  
18 ~~increasing residential security, not to exceed one thousand five~~  
19 ~~hundred dollars (\$1,500). Reimbursement shall be made either~~  
20 ~~upon verification by law enforcement that the security measures~~  
21 ~~are necessary for the personal safety of the claimant or verification~~  
22 ~~by a mental health treatment provider that the security measures~~  
23 ~~are necessary for the emotional well-being of the claimant. For~~  
24 ~~purposes of this paragraph, a claimant is the crime victim, or, if~~  
25 ~~the victim is deceased, a person who resided with the deceased at~~  
26 ~~the time of the crime. Installing or increasing residential security~~  
27 ~~may include, but need not be limited to, both of the following:~~

28     ~~(A) Home security device or system.~~

29     ~~(B) Replacing or increasing the number of locks.~~

30     ~~(7) Reimburse the expense of renovating or retrofitting a~~  
31 ~~victim's residence or a vehicle, or both, to make the residence, the~~  
32 ~~vehicle, or both, accessible or the vehicle operational by a victim~~  
33 ~~upon verification that the expense is medically necessary for a~~  
34 ~~victim who is permanently disabled as a direct result of the crime,~~  
35 ~~whether the disability is partial or total.~~

36     ~~(8) (A) Authorize a cash payment or reimbursement not to~~  
37 ~~exceed three thousand dollars (\$3,000) to a victim for expenses~~  
38 ~~incurred in relocating, if the expenses are determined by law~~  
39 ~~enforcement to be necessary for the personal safety of the victim~~

1 or by a mental health treatment provider to be necessary for the  
2 emotional well-being of the victim.

3 ~~(B) The cash payment or reimbursement made under this~~  
4 ~~paragraph shall be awarded on a per victim basis. In the case of a~~  
5 ~~family consisting of several victims, a parent with minor children~~  
6 ~~shall only receive one payment; however, if more than one adult~~  
7 ~~is categorized as a victim, each adult moving to a different location~~  
8 ~~shall qualify for a separate cash payment or reimbursement.~~

9 ~~(C) The board may, under compelling circumstances, award a~~  
10 ~~second cash payment or reimbursement to a victim for another~~  
11 ~~crime if both of the following conditions are met:~~

12 ~~(i) The crime occurs more than three years from the date of the~~  
13 ~~crime giving rise to the initial relocation cash payment or~~  
14 ~~reimbursement.~~

15 ~~(ii) The crime does not involve the same offender.~~

16 ~~(D) When a relocation payment or reimbursement is provided~~  
17 ~~to a victim of sexual assault or domestic violence and the identity~~  
18 ~~of the offender is known to the victim, the victim shall agree not~~  
19 ~~to inform the offender of the location of the victim's new residence~~  
20 ~~and not to allow the offender on the premises at any time, or shall~~  
21 ~~agree to seek a restraining order against the offender, unless there~~  
22 ~~is a court order that expressly permits any of these conditions,~~  
23 ~~including, but not limited to, a child custody or visitation~~  
24 ~~agreement.~~

25 ~~(E) Notwithstanding subparagraphs (A) and (B), the board may~~  
26 ~~increase the cash payment or reimbursement for expenses incurred~~  
27 ~~in relocating to an amount greater than two thousand dollars~~  
28 ~~(\$2,000), if the board finds this amount is appropriate due to the~~  
29 ~~unusual, dire, or exceptional circumstances of a particular claim.~~

30 ~~(9) When a victim dies as a result of a crime, the board may~~  
31 ~~reimburse any individual who voluntarily, and without anticipation~~  
32 ~~of personal gain, pays or assumes the obligation to pay any of the~~  
33 ~~following expenses:~~

34 ~~(A) The medical expenses incurred as a direct result of the crime~~  
35 ~~in an amount not to exceed the rates or limitations established by~~  
36 ~~the board.~~

37 ~~(B) The funeral and burial expenses incurred as a direct result~~  
38 ~~of the crime, not to exceed seven thousand five hundred dollars~~  
39 ~~(\$7,500).~~

~~(10) When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.~~

~~(11) Reimburse the licensed child care expenses necessarily incurred by a victim or derivative victim as a direct result of a crime that resulted in physical injury or death, if the following conditions are met:~~

~~(A) The injured or deceased victim was a primary caregiver for the victim's dependent children.~~

~~(B) The total reimbursement for all child care expenses does not exceed five thousand dollars (\$5,000). The board shall have the ability to set a lower reimbursement amount if necessary to protect the solvency of the Restitution Fund.~~

~~(C) The periods of time for which child care expenses may be reimbursed do not exceed a total of 180 days. The time periods need not be continuous.~~

~~(D) The child care expenses are consistent with the usual and customary rates charged by the child care provider for other children in the provider's care. If the provider only cares for the victim's children, the reimbursement rate shall not exceed two hundred dollars (\$200) per week for one child or four hundred dollars (\$400) per week for two or more children subject to the limit in subparagraph (E).~~

~~(E) No victim or derivative victim may receive reimbursement for child care expenses in addition to reimbursement subject to paragraph (4).~~

~~(F) This paragraph is a pilot program and shall be operative only until January 1, 2010.~~

~~(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars (\$35,000); except that this amount may be increased to seventy thousand dollars (\$70,000) if federal funds for that increase are available.~~

1     ~~SEC. 7.~~

2     SEC. 3. Section 13957.2 of the Government Code is amended  
3 to read:

4     13957.2. (a) The board may establish maximum rates and  
5 service limitations for reimbursement of medical and  
6 medical-related services and for mental health and counseling  
7 services. The adoption, amendment, and repeal of these service  
8 limitations and maximum rates shall not be subject to the  
9 rulemaking provision of the Administrative Procedure Act (Chapter  
10 3.5 (commencing with Section 11340) of Part 1). *An informational*  
11 *copy of the service limitations and maximum rates shall be filed*  
12 *with the Secretary of State upon adoption by the board.* Any change  
13 in maximum rates or service limitations shall not affect payment  
14 or reimbursement of losses incurred prior to six months after the  
15 adoption of any changes by regulations. A provider who accepts  
16 payment from the program for a service shall accept the program's  
17 rates as payment in full and shall not charge the client for any  
18 out-of-pocket difference. ~~Nothing shall prohibit the provider from~~  
19 ~~accepting payment from insurance or other reimbursement source~~  
20 ~~to pay the difference between the board reimbursement rate and~~  
21 ~~the full service charges. It shall be presumed that such treatment~~  
22 ~~is appropriate and necessary as the result of the crime unless there~~  
23 ~~exists specific evidence to the contrary.~~

24     (b) The board may request an independent examination and  
25 report from any provider of medical or medical-related services  
26 or psychological or psychiatric treatment or mental health  
27 counseling services, if it believes there is a reasonable basis for  
28 requesting an additional evaluation. The victim or derivative victim  
29 shall be notified of the name of the provider who is to perform the  
30 evaluation within 30 calendar days of that determination. In cases  
31 where the crime involves sexual assault, the provider shall have  
32 expertise in the needs of sexual assault victims. In cases where the  
33 crime involves child abuse or molestation, the provider shall have  
34 expertise in the needs of victims of child abuse or molestation, as  
35 appropriate. When a reevaluation is requested, payments shall not  
36 be discontinued prior to completion of the reevaluation.

37     (c) Reimbursement for any medical, medical-related, or mental  
38 health services shall, if the application has been approved, be paid  
39 by the board within ~~30~~ *an average of 90* days from receipt of the  
40 claim for payment. Payments to a medical or mental health provider



1 may not be discontinued prior to completion of any reevaluation.  
2 Whether or not a reevaluation is obtained, if the board determines  
3 that payments to a provider will be discontinued, the board shall  
4 notify the provider of their discontinuance within 30 calendar days  
5 of its determination and shall continue payments until 30 calendar  
6 days after the notice has been mailed to the provider.

7 ~~SEC. 8.~~

8 *SEC. 4.* Section 13957.7 of the Government Code is amended  
9 to read:

10 13957.7. (a) No reimbursement may be made for any expense  
11 that is submitted more than three years after it is incurred by the  
12 victim or derivative victim. However, reimbursement may be made  
13 for an expense submitted more than three years after the date it is  
14 incurred if the victim or derivative victim has affirmed the debt  
15 and is liable for the debt at the time the expense is submitted for  
16 reimbursement, or has paid the expense as a direct result of a crime  
17 for which ~~an~~ *a timely* application has been filed or has paid the  
18 expense as a direct result of a crime for which an application has  
19 been filed and approved.

20 (b) Compensation made pursuant to this chapter may be on a  
21 one-time or periodic basis. *If periodic, the board may increase,*  
22 *reduce, or terminate the amount of compensation according to the*  
23 *applicant's need,* subject to the maximum limits provided in this  
24 chapter. ~~If compensation is made on a periodic basis, the board~~  
25 ~~may increase, reduce, or terminate the amount of compensation~~  
26 ~~according to the applicant's need, subject to the maximum limits~~  
27 ~~provided in this chapter.~~

28 (c) (1) The board may authorize direct payment to a provider  
29 of services that are reimbursable pursuant to this chapter and may  
30 make those payments prior to verification. However, the board  
31 may not, without good cause, authorize a direct payment to a  
32 provider over the objection of the victim or derivative victim.

33 (2) Reimbursement on the initial claim for any psychological,  
34 psychiatric, or mental health counseling services shall, if the  
35 application has been approved, be paid by the board within 90  
36 days of the date of receipt of the claim for payment, with  
37 subsequent payments to be made to the provider within one month  
38 of the receipt of a claim for payment.

39 (d) Payments for peer counseling services provided by a rape  
40 crisis center may not exceed fifteen dollars (\$15) for each hour of

1 services provided. Those services shall be limited to in-person  
2 counseling for a period not to exceed 10 weeks plus one series of  
3 facilitated support group counseling sessions.

4 (e) The board shall develop procedures to ensure that a victim  
5 is using compensation for job retraining or relocation only for its  
6 intended purposes. The procedures may include, but need not be  
7 limited to, requiring copies of receipts, agreements, or other  
8 documents as requested, or developing a method for direct  
9 payment.

10 (f) Compensation granted pursuant to this chapter shall not  
11 disqualify an otherwise eligible applicant from participation in any  
12 other public assistance program.

13 (g) The board shall pay attorney's fees representing the  
14 reasonable value of legal services rendered to the applicant, in an  
15 amount equal to 10 percent of the amount of the award, or five  
16 hundred dollars (\$500), whichever is less, for each victim and each  
17 derivative victim. An attorney receiving fees from another source  
18 may waive the right to receive fees under this subdivision.  
19 Payments under this subdivision shall be in addition to any amount  
20 authorized or ordered under subdivision (b) of Section 13960. An  
21 attorney may not charge, demand, receive, or collect any amount  
22 for services rendered in connection with any proceedings under  
23 this chapter except as awarded under this chapter.

24 (h) A private nonprofit agency shall be reimbursed for its  
25 services at the level of the normal and customary fee charged by  
26 the private nonprofit agency to clients with adequate means of  
27 payment for its services, except that this reimbursement may not  
28 exceed the maximum reimbursement rates set by the board and  
29 may be made only to the extent that the victim otherwise qualifies  
30 for compensation under this chapter and that other reimbursement  
31 or direct subsidies are not available to serve the victim.

32 ~~SEC. 9.~~

33 *SEC. 5.* Section 13957.9 of the Government Code is amended  
34 to read:

35 13957.9. (a) Notwithstanding Section 13954, the board shall  
36 develop a simplified and expedited procedure for paying claims  
37 of a qualified provider of mental health services.

38 (b) A simplified and expedited procedure for paying claims  
39 specified in subdivision (a) shall include all of the following:

1 (1) An agreement by the provider to subject its claims to audit  
2 procedures established by the board and to request payment only  
3 for qualified services.

4 (2) An agreement by the board to pay claims on a regular and  
5 timely basis to a qualified provider for services without requiring  
6 further documentation beyond that required to initially qualify the  
7 claim.

8 (3) Additional methods of simplifying the claims process as  
9 agreed upon between the board and the qualified provider.

10 (c) Simplified and expedited procedures for mental health  
11 services may be instituted when both of the following conditions  
12 are met:

13 (1) The board has determined that the crime has occurred and  
14 that the victim qualifies for compensation pursuant to this chapter.

15 (2) Services to the victim or derivative victim, or both, are being  
16 provided by a qualified provider.

17 (d) An agency may apply to the board for a determination that  
18 the agency is a qualified provider for purposes of this section. The  
19 board shall approve or reject an application from a qualified  
20 provider for participation in an agreement pursuant to this section  
21 within 90 days of receipt of a complete application as required by  
22 the board.

23 (e) An agreement made pursuant to this section shall not be  
24 deemed to be a contract subject to the requirements of Part 2  
25 (commencing with Section 10100) of Division 2 of the Public  
26 Contract Code.

27 (f) For purposes of this section, “qualified provider” means an  
28 agency with extensive experience in providing mental health  
29 services and that has utilized reimbursement from the Restitution  
30 Fund at a significant level on a regular and constant basis. Upon  
31 request of an agency, the board shall determine if the agency is a  
32 qualified provider for purposes of this section.

33 ~~SEC. 10. Section 13958 of the Government Code is amended~~  
34 ~~to read:~~

35 ~~13958. (a) The board shall approve or deny applications, based~~  
36 ~~on recommendations of the board staff, within 90 calendar days~~  
37 ~~of submission of the claim to the board or the verifying contractor.~~

38 ~~(b) If the board fails to approve or deny an individual application~~  
39 ~~within 90 days of the date it is submitted, pursuant to this~~  
40 ~~subdivision, the board shall advise the applicant and his or her~~

1 representative, in writing, of the reason for the failure to approve  
2 or deny the application. Notice shall be given to the applicant and  
3 his or her representative within 30 days after the 90-day period  
4 prescribed by this subdivision.

5 (e) If the board fails to comply with subdivision (a) or the notice  
6 period prescribed by subdivision (b), the board shall report to the  
7 Legislature on a quarterly basis the number of applications for  
8 which the board failed to meet its obligation under this section.

9 SEC. 11. Section 13964 of the Government Code is amended  
10 to read:

11 13964. (a) Claims under this chapter shall be paid from the  
12 Restitution Fund.

13 (b) Notwithstanding Section 13340, the proceeds in the  
14 Restitution Fund are hereby continuously appropriated to the board,  
15 without regard to fiscal years, for the purposes of this chapter.  
16 However, the funds appropriated pursuant to this section for any  
17 costs, excluding the direct payment of victim benefits, of the board  
18 shall be subject to annual review through the State Budget process.

19 (c) A sum not to exceed 15 percent of the amount appropriated  
20 annually to pay claims pursuant to this chapter may be withdrawn  
21 from the Restitution Fund, to be used as a revolving fund by the  
22 board for the payment of emergency awards pursuant to Section  
23 13961.